

E-FILED: May 29, 2012

NOT FOR CITATION
 IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

MARY BASICH,

No. C11-04406 EJD (HRL)

Plaintiff,

**ORDER RE DISCOVERY DISPUTE
JOINT REPORT #1**

v.

[Re: Docket No. 57]

PATENAUDE & FELIX, APC. and CAPITAL
ONE BANK, (USA), N.A.; DOES 1-10,
inclusive,

Defendants.

Plaintiff Mary Basich sues for alleged violations of the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. and the California Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788, et seq. She claims that defendants improperly attempted to collect a debt from her with respect to a Capital One credit card. Plaintiff says that this is a case of mistaken identity and that she is not the debtor. This court is told that the debt is owed by one Mary Ryals, who reportedly used the alias “Mary Basich.”¹ Although plaintiff references debt collection efforts spanning five years, defendant contends (and plaintiff does not deny) that her federal and state claims are subject to a one-year statute of limitations. 15 U.S.C. § 1692k(d); Cal. Civ. Code § 1788.30(f).

¹ Basich initially thought Ryals had stolen her identity, but plaintiff now tells this court that she no longer believes that to be the case.

1 Now before this court is the parties' Discovery Dispute Joint Report (DDJR) #1 re
2 plaintiff's requests for documents pertaining to the Capital One account in question. The matter
3 is deemed suitable for determination without oral argument. Civ. L.R. 7-1(b). Having
4 considered the parties' respective positions on the matter, the court rules as follows:

5 Defendant Patenaude & Felix (P&F) reports that it found documents responsive to
6 Requests for Production 1-11, 14, 17, 20 and 23 pertaining to Ryals. P&F agrees that
7 documents concerning collection activity and contact information during the limitations period
8 are relevant. However, in view of certain statutory prohibitions on communications concerning
9 a debt, and because P&F believes the information implicates Ryals' privacy rights,² defendant
10 did not believe that it properly could stipulate to an order compelling production of such
11 documents. P&F nevertheless does not oppose such an order.

12 Accordingly, P&F shall produce all responsive documents pertaining to Ryals that have
13 been withheld solely on the basis of Ryals' privacy rights and which fall within the limitations
14 period. P&F shall produce all such documents to plaintiff within 7 calendar days from the date
15 of this order.

16 SO ORDERED.

17 Dated: May 29, 2012

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19 HOWARD R. LLOYD
20 UNITED STATES MAGISTRATE JUDGE
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27 ² Defendants say that certain responsive documents have also been withheld on
28 privilege grounds, and the parties reportedly are attempting to resolve those issues. Any
disputes as to those other objections and documents have not been presented in DDJR #1,
and this order therefore is limited to those documents that have been withheld solely on the
basis of Ryals' privacy interests.

5:11-cv-04406-EJD Notice has been electronically mailed to:

Balam Osberto Letona letonalaw@gmail.com

Candice Lynn Fields cfields@kmtg.com, lchenknapp@kmtg.com, mmcguire@kmtg.com,
SRamirez@kmtg.com

Danielle Renee Teeters dteeters@kmtg.com, sramirez@kmtg.com

June D. Coleman jcoleman@kmtg.com, krockenstein@kmtg.com, lchenknapp@kmtg.com

Lucius Wallace luke@hwh-law.com, tammy@hwh-law.com

Robert David Humphreys david@hwh-law.com, tammy@hwh-law.com